IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 12305 of 2002

Between:

1. K.V.Krishna Rao, Manager, S/o K.V.Satyanarayana,

aged 49 years,

2. A.S.N.Murthy, Sr.F.O. S/o Mutthanna, aged 50 yrs,

3. Y.Govinda Rao, F.O., S/o Venkataraju, aged 51 yrs,

4. A.A.R.S.Sarma, Cashier, S/o Veerabhadra Sarma,

aged 46 yrs,

5. K.Satyanarayana, Clerk, S/o Subba Rao, aged 49 yrs,

6. K.Thammi Raju, Clerk, S/o Venkateshwar Rao, aged 40 yrs,

7. A.Nageshwa Rao, Attender, S/o Sithapathi Rao, aged 43 yrs,

8. P.A.Rama Rao, Attender, S/o P.M.Rao, aged 34 yrs,

All are residents of Kathipurdi, East Godavari.

..... PETITIONERS

AND

1. The Registrar, Co-Operative Societies,

Hyderabad, Andhra Pradesh.

2. The Dy.Registrar/The Divisional Co-Operative

Officer, Peddapuram, East Godavari.

3. Farmers Service Co-Operative Society, Kathipudi,

East Godavari, Retp., by its Managing Director.

4. Farmers Service Co-Operative Society, Kathipudi,

East Godavari, Rep. By its Person-in-charge/Co-Operative

Sub-Registrar.

5. Andhra Bank, Head Office, Saifabad, Hyderabad,

rep. By its General Manager (RP & DB)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or Direction, more particularly one in nature of Writ of Mandamus to set aside the order passed by the end respondent in Rc.No.776/2002-D, dt.16-5-2002 after declaring the action in reducing the pay and allowances of the petitioners, without following due process of Law and Principles of Natural Justice and further declare that the amendment of Sec.116(c) of the Co-Operative Societies Act will not have any retrospective effect, and declare that the impugned order is passed arbitrarily, illegal, without jurisdiction and against Service conditions as approved by the 2nd respondent in R.C.No.1720/97-D, dt.31.07.1997 and further declare that the 3rd and 4th respondents to continue the petitioners on the pay scales as approved by the 1st respondent in R.C.No.1720/97-D, dt.31.7.1997.

Counsel for the Petitioners: MR.B.SUDHAKAR REDDY & NEERAJA REDDY

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

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ORDER:

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It is the case of the petitioners that they are employees of the 4th respondent-Farmers Service Co-operative Society, Kathipuda, East Godavari District, which was established for the benefit of small and marginal farmers, artisans and agricultural labourers. The Society use to get loans from Banks and other financial institutions and lends money to the farmers. On the basis of the working capital and the interest accrued on the loan amount, the employees are being paid the salaries. As there is no Managing Committee to the 4th respondent Society, as on today, the

Person-in-Charge is managing the affairs of the 4th respondent-Society under the supervision of the 3rd respondent. Thereafter, the respondent authorities revised and modified the pay scales of the petitioners vide proceedings issued by the 2nd respondent in Rc.No.1720/97, dated 31.07.1997 and though the petitioners are eligible for payment of pay scales with effect from 31.07.1997, they were given revised pay scales with effect from December-1997 and thereby reduced the salaries of the petitioners without following the due process of law. Hence, this writ petition is filed seeking to fix their pay and allowances and also for a direction to the respondent authorities to continue the services of the petitioners on the pay scales as approved by the 1st respondent, dated 31.07.1997.

The learned counsel for the petitioners submits that as the 3rd and 4th respondent Societies are registered under the Andhra Pradesh Cooperative Societies Act (for short 'the Act'), the service regulations were already formulated and approved by the 2nd respondent-Divisional Co-operative Officer, Peddapuram, East Godavari District. Hence, the amended provisions of Section 116-C of the Act has no application to the respondent Society and the said Act has no retrospective effect. Therefore, there is no need to follow the stipulations prescribed under Section 116-C of the Act. As the provisions of Section 116-C has no retrospective effect, the order of the Deputy Registrar, Cooperative Societies, Peddapuram, dated 16.05.2002 directing the Society to get the staffing pattern approved, subject to the condition that the total expenditure on pay and allowances shall not exceed 30% of the gross profit or 2% of the working capital, which ever is less, is illegal and has no application to the 4th respondent Society.

The contention of the learned counsel for the respondents is that the staffing pattern as approved by the Deputy Registrar of Cooperative Societies as on 31-7-1997 is based on the financial conditions of the Society at that relevant point of time and therefore, the said approval is not a final and permanent one and has no application to the forthcoming years. The staffing pattern requires to be changed depending upon the financial position of the Society for the every ensuing years. It is further stated that as Section 116-C of the Act is mandatory, the Society has power to fix the staffing pattern, qualifications, pay scales and other allowances for its employees with the prior approval of the Registrar of Cooperative Societies, subject to the condition that expenditure towards pay and allowances of the employees shall not

exceed 2% of the working capital or 30% of the Gross Profit in terms of actuals in a year, which ever is less. Hence, the pay and allowances of any Co-operative Society shall be reviewed from time to time basing on its financial position. Therefore, the said proceedings issued by the Registrar of Cooperative Societies is only in accordance with Section 116-C of the Act read with Rule 36-B of the Andhra Pradesh Cooperative Societies Rules (for short 'the Rules').

On an earlier occasion, this Court took a view in W.P.No. 3171 of 2003 and batch, dated 30.08.2004, that the provisions of Section 116-C of the Act are mandatory in nature and every Society is bound to implement the said provisions. The impugned proceedings issued by the 2nd respondent is only in conformity with Section 116-C of the Act read with Rules 28-4(b) and 36-B of the Rules. Therefore, I do not see any illegality in the impugned proceedings dated 16-5-2002 and the writ petition is devoid of merits.

Accordingly, the writ petition is dismissed. No order as to costs.

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V.ESWARAIAH.J

sj

ASSISTANT REGISTRAR

To

1. The Registrar, Co-Operative Societies,

Hyderabad, Andhra Pradesh.

2. The Dy.Registrar/The Divisional Co-Operative

Officer, Peddapuram, East Godavari.

3. Managing Director, Farmers Service Co-Operative

Society, Kathipudi, East Godavari.

4. Person-in-charge/Co-Operative

Sub-Registrar, Farmers Service Co-Operative Society,

Kathipudi, East Godavari.

5. General Manager (RP & DB) Andhra Bank,

Head Office, Saifabad, Hyderabad.

6. Two CCs to Government Pleader for Co-Operation,

High Court Buildings, Hyderabad.(OUT)

7. 2CD copies